

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

**UNITED STATES OF AMERICA**

**V.**

**NO. 3:19-CR-11-6**

**DENISE JONES**

**ORDER**

On November 2, 2020, the government, pursuant to Federal Rule of Civil Procedure 48(a), filed a motion to dismiss without prejudice the charges in the indictment against Denise Jones. Doc. #478. As grounds, the government represents that Jones “has entered into a pre-trial diversion program pursuant to 18 U.S.C. § 3154(10), which began on October 30, 2020,” and that Jones does not object to the motion. *Id.* at 1.

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, “[t]he government may, with leave of court, dismiss an indictment, information, or complaint. The government may not dismiss the prosecution during trial without the defendant’s consent.” “This ‘leave of court’ requirement has been interpreted to allow the courts to exercise discretion over the propriety of a prosecutorial motion to dismiss.” *United States v. Jones*, 694 F.3d 966, 973 (5th Cir. 2011) (internal quotation marks omitted). However, this discretion must be exercised with a view to the rule’s purpose—“to protect a defendant against prosecutorial harassment, *e.g.*, charging, dismissing, and recharging, when the Government moves to dismiss an indictment over the defendant’s objection.” *Rinaldi v. United States*, 434 U.S. 22, 29 n.15 (1977).

As a general rule, a motion for leave to dismiss “should be granted unless the trial court has an affirmative reason to believe that the dismissal motion was motivated by considerations contrary to the public interest.” *United States v. Salinas*, 693 F.2d 348, 352 (5th Cir. 1982). “Although the burden of proof is not on the prosecutor to prove that dismissal is in the public

interest, the prosecutor is under an obligation to supply sufficient reasons – reasons that constitute more than a mere conclusory interest.” *Id.* (internal footnote and quotation marks omitted).

Here, the government’s proffered reason for the dismissal—that Jones has entered into a pre-trial diversion program—is sufficient. Accordingly, the motion to dismiss [478] is **GRANTED**. The charges in the indictment against Denise Jones are **DISMISSED without prejudice**.

**SO ORDERED**, this 13th day of November, 2020.

/s/Debra M. Brown  
**UNITED STATES DISTRICT JUDGE**